



October 10, 2000

Ms. Janice Mullenix
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2000-3902

Dear Ms. Mullenix:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 140385.

The Texas Department of Transportation (the "department") received a request for information relating to a specific highway project. Specifically, the request seeks

- 1) copies of the Traffic Control Device Inspection Reports for the I-35 west-S (120) 421 project (Form #599-6-86) from October 7, 1998 to December 7, 1998,
- 2) copies of the Inspector's Daily Diary Reports (Form #1260-9-75) from October 7, 1998 to December 7, 1998, and
- 3) copies of any change orders for the project from July 1, 1998 to December 7, 1998.

You have provided us a representative sample of the Traffic Control Device Inspection Reports.¹ However, you have not provided for our review copies or representative samples of the other two categories of requested information.² See Gov't Code § 552.301. We

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²You have submitted documents which do not appear to be either Inspector's Daily Diary Reports or change orders. This ruling does not address the release or withholding of these documents.

assume that you have released to the requestor the information that is responsive to the second and third categories of the request. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

You have submitted for our review Traffic Control Device Inspection Reports. Section 552.022(a)(1) of the Government Code makes a completed report public and not excepted from required disclosure under chapter 552 of the Public Information Act unless the report is expressly confidential under other law or excepted from disclosure under section 552.108. Gov't Code § 552.022(a)(1). Section 552.103 is an exception under the Public Information Act and is not other law that makes the requested information confidential. Accordingly, the submitted reports may not be withheld from disclosure pursuant to section 552.103 of the Government Code. You must release the reports to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

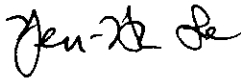
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yen-Ha Le', is written above the typed name.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ljp

Ref: ID# 140385

Encl. Submitted documents

cc: Mr. Marcos Hazan-Cohen
Fletcher & Springer, L.L.P.
9400 North Central Expressway, 14th Floor
Dallas, Texas 75231
(w/o enclosures)